

BEFORE THE NATIONAL LABOR RELATIONS BOARD
UNITED STATES OF AMERICA

REGION 19

THE WACKENHUT CORPORATION

Employer

and

Case 36-RC-6322

INTERNATIONAL UNION, SECURITY,
POLICE AND FIRE PROFESSIONALS
OF AMERICA (IUSPFPA)

Petitioner

and

UNITED GOVERNMENT SECURITY
OFFICERS OF AMERICA (UGSOA)
LOCAL #38

I ntervenor

and

CALIFORNIA SECURITY OFFICERS
UNION (CSOU)

I ntervenor

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record¹ in this proceeding, the undersigned makes the following findings and conclusions.²

¹ The parties present at the hearing waived the filing of briefs.

² The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. The labor organization involved claims to represent certain employees of the Employer and a question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

Summary

International Union Security, Police and Fire Professionals of America ("IUSPFA") has filed a petition for representation of a bargaining unit that has historically been represented by United Government Security Officers of America ("UGSOA") Local #38. The California Security Officers Union ("CSOU") has intervened in this matter and in addition to IUSPFA, was present at the hearing. The Employer and UGSOA, the current bargaining representative, failed to appear at the hearing. Although there are no substantive issues in dispute, there are a number of issues that I have addressed below. Following the background, organizations involved, and representation sections, is my conclusion and direction of election.

Background

The Employer provides security services to the federal government in Oregon and several counties in southwest Washington. Jurisdiction is established based on a stipulated election agreement in 36-UD-358 between the Employer and UGSOA, which is consistent with the information provided in the Questionnaire on Commerce Information. In that agreement, the parties stipulated to the following:

The Employer, Wackenhut Corporation, is a Florida corporation engaged in the business of providing security services throughout the Continental United States, including the State of Oregon. During the past calendar year, the representative period the Employer provided security services valued in excess of \$50,000 to the United States Government, which in turn is engaged in interstate commerce.

Accordingly, I take notice of jurisdiction of the Employer based on the evidence provided in the commerce questionnaire and the stipulated election agreement in 36-UD-358.

The Organizations Involved

As noted above, UGSOA Local #38 is the current collective bargaining representative of employees sought here. With respect to CSOU, the Board has certified this union as the exclusive bargaining representative of guards in several cases, including 32-RC-5278 and in 32RC-5045. With regard to IUSPFA, the record reflects that it is the exclusive bargaining representative of security officers and guards for several other employers in Oregon and Washington. There is no contention that the labor organizations represent members other than guards and/or security officers, or that they are affiliated with any organization that does not represent guards or security officers. As such, I take notice that these organizations are labor organizations within the meaning of Section 2, subsection 5 of the National Labor Relations Act, as amended.

The Question Concerning Representation

The collective bargaining agreement³ between the Employer and UGSOA Local #38 covers the following:

All full-time and part-time security officer employees assigned pursuant to the Employer's GSA or its successor contract (s) for the security within all counties in the State of Oregon, and Clark, Cowlitz, Skamania and Wahkiakum counties in the State of Washington, but excluding all managers, supervisors or clerical employees as defined by the National Labor Relations Act.

³ There is no contract bar to a determination of representatives as IUSPFA's RC petition was timely filed.

The above-described bargaining unit has been the historical bargaining unit at the Employer. In this case, no party contends that the bargaining unit should be anything other than the unit as described in the CBA. Accordingly, the above-described unit is the appropriate unit for purposes of collective bargaining.

CONCLUSION

In light of my findings above and the record as a whole, I shall direct an election in the following appropriate unit (hereinafter "Unit"):

All full-time and part-time security officer employees assigned pursuant to the Employer's GSA or its successor contract (s) for the security within all counties in the State of Oregon, and Clark, Cowlitz, Skamania and Wahkiakum counties in the State of Washington, but excluding all managers, supervisors or clerical employees as defined by the National Labor Relations Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by International Union, Security, Police and Fire Professionals of America, or by United Government Security Officers of America, Local #38, or by California Security Officers Union, for the purposes of collective bargaining, or by none.

LIST OF VOTERS

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the alphabetized full names and addresses of all the eligible voters, must be filed by the Employer with the Officer-in-Charge for Sub-Region 36 within 7 days of the date of this Decision and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. The Sub-Region shall, in turn, make the list available to all parties to the election.

In order to be timely filed, such list must be received in the Sub-Regional Office, 601 SW 2nd Avenue, Suite 1910, Portland, OR, 97204-3170, on or before October 19, 2005. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission to (503) 326-5387. Since the list is to be made available to all parties to the election, please furnish a total of 4 copies, unless the list is submitted by facsimile, in which case only one copy need be submitted.

NOTICE POSTING OBLIGATIONS

According to Board Rules and Regulations, Section 103.20, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of three working days prior to the date of election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by October 26, 2005.

DATED at Seattle, Washington, this 12th day of October 2005.

/s/ [Richard L. Ahearn]

Richard L. Ahearn, Regional Director National
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